

WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.

Official Title and Summary

Prepared by the Attorney General

WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Amends California Constitution, prohibiting abortion for unemancipated minor until 48 hours after physician notifies minor's parent/legal guardian, except in medical emergency or with parental waiver.
- Defines abortion as causing "death of the unborn child, a child conceived but not yet born."
- Permits minor to obtain court order waiving notice based on clear, convincing evidence of minor's maturity or best interests.
- Mandates various reporting requirements.
- Authorizes monetary damages against physicians for violation.
- Requires minor's consent to abortion, with certain exceptions.
- Permits judicial relief if minor's consent coerced.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Potential unknown net state costs of several million dollars annually for health and social services programs, the courts, and state administration combined.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

PRIOR STATE LEGISLATION

In 1953, a state law was enacted that allowed minors to receive, without parental consent or notification, the same types of medical care for a pregnancy that are available to an adult. Based on this law and later legal developments related to abortion, minors were able to obtain abortions without parental consent or notification.

In 1987, the Legislature amended this law to require minors to either obtain the consent of a parent or a court before obtaining an abortion. However, due to legal challenges, the law was never implemented, and the California Supreme Court ultimately struck it down in 1997. Consequently, minors in the state currently receive abortion services to the same extent as adults. This includes minors in various state health care programs, such as the Medi-Cal health care program for low-income individuals.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

PROPOSAL

NOTIFICATION REQUIREMENT

This proposition amends the California Constitution to require, with certain exceptions, a physician (or his or her representative) to *notify* the parent or legal guardian of a pregnant minor at least 48 hours before performing an abortion involving that minor. (This measure does not require a physician or a minor to obtain the consent of a parent or guardian.) This measure applies only to cases involving an “unemancipated” minor. The proposition identifies an unemancipated minor as being a female under the age of 18 who has not entered into a valid marriage, is not on active duty in the armed services of the United States, and has not been declared free from her parents’ or guardians’ custody and control under state law.

A physician would provide the required notification in either of the following two ways:

- **Personal Written Notification.** Written notice could be provided to the parent or guardian personally—for example, when a parent accompanied the minor to an office examination or to obtain the abortion itself.
- **Mail Notification.** A parent or guardian could be sent a written notice by certified mail so long as a return receipt was requested by the physician and delivery of the notice was restricted to the parent or guardian who must be notified. An additional copy of the written notice would have to be sent at the same time to the parent or guardian by first-class mail. Under this method, notification would be presumed to have occurred as of noon on the second day after the written notice was mailed.

EXCEPTIONS TO NOTIFICATION REQUIREMENTS

The measure provides the following exceptions to the notification requirements:

Medical Emergencies. The notification requirements would not apply if the physician certifies in the minor’s medical record that the abortion is necessary to prevent the mother’s death or that a delay would “create serious risk of substantial and irreversible impairment of a major bodily function.”

Waivers Approved by Parent or Guardian. A minor’s parent or guardian could waive the notification requirements, including the waiting period, by submitting a signed, written waiver form to the physician.

Waivers Approved by Courts. The pregnant minor could ask a juvenile court to waive the notification requirements. A court could do so if it finds that the minor is sufficiently mature and well-informed to decide whether to have an abortion or that notification would not be in the minor’s best interest. If the waiver request is denied, the minor could appeal that decision to an appellate court.

A minor seeking a waiver would not have to pay court fees, would be appointed a temporary guardian and provided other assistance in the case by the court, and would be entitled to an attorney appointed by the court. The identity of the minor would be kept confidential. The court would generally have to hear and issue a ruling within three business days of receiving the waiver request. The appellate court would generally have to hear and decide any appeal within four business days.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

The proposition also requires that, in any case in which the court finds evidence of physical, sexual, or emotional abuse by the parent or guardian, the court must refer the evidence to the county child protection agency.

STATE REPORTING REQUIREMENT

Physicians are required by this proposition to file a form reporting certain information to the state Department of Health Services (DHS) within one month after performing an abortion on a minor. The DHS form would include the identity of the physician, the date and place where the abortion was performed, the minor's month and year of birth, and certain other information about the circumstances under which the abortion was performed. The forms that physicians would file would not identify the minor or any parent or guardian by name. Based on these forms, DHS would compile certain statistical information relating to abortions performed on minors in an annual report that would be available to the public.

PENALTIES

Any person who performs an abortion on a minor and who fails to comply with the provisions of the measure would be liable for damages in a civil action brought by the minor, her legal representative, or by a parent or guardian wrongfully denied notification. Any person, other than the minor or her physician, who knowingly provides false information that notice of an abortion has been provided to a parent or guardian would be guilty of a misdemeanor punishable by a fine.

RELIEF FROM COERCION

The measure allows a minor to seek help from the juvenile court if anyone were to attempt to coerce her to have an abortion. A court would be required to consider such cases quickly and could take whatever action it finds necessary to prevent coercion.

FISCAL EFFECTS

The fiscal effects of this measure on state government would depend mainly upon how these new requirements affected the behavior of minors regarding abortion and childbearing. Studies of similar laws in other states suggest that the effect of this measure on the birthrate for California minors would be limited, if any. If it were to increase the birthrate for California minors, the net cost to the state would probably not exceed several million dollars annually for health and social services programs, the courts, and state administration combined. We discuss the potential major fiscal effects of the measure below.

STATE HEALTH CARE PROGRAMS SAVINGS AND COSTS

Studies of other states with laws similar to the one proposed in this measure suggest that it could result in a reduction in the number of abortions obtained by minors within California. This reduction in abortions performed in California might be offset to an unknown extent by an increase in the number of out-of-state abortions obtained by California minors. Some minors might also avoid pregnancy as a result of this measure, further reducing the number of abortions for this group. If, for either reason,

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

this proposition reduces the overall number of minors obtaining abortions in California, it is also likely that fewer abortions would be performed under the Medi-Cal Program and other state health care programs that provide medical services for minors. This would result in unknown state savings for these programs.

This measure could also result in some unknown additional costs for state health care programs. If this measure results in a decrease in minors' abortions and an increase in the birthrate of children in low-income families eligible for publicly funded health care, the state would incur additional costs. These could include costs for medical services provided during pregnancy, deliveries, and infant care.

The net fiscal effect of these cost and savings factors, if any, on the state would probably not exceed costs of a few million dollars annually. These costs would not be significant compared to total state spending for programs that provide health care services. The Medi-Cal Program alone is estimated to cost the state \$13.0 billion in 2005–06.

STATE ADMINISTRATIVE COSTS

The DHS would incur first-year state costs of up to \$350,000 to develop the new forms needed to implement this measure, establish the physician reporting system, and prepare the initial annual report containing statistical information on abortions obtained by minors. The ongoing state costs for DHS to implement this measure could be as much as \$150,000 annually.

JUVENILE AND APPELLATE COURT COSTS

The measure would result in increased state costs for the courts, primarily as a result of the provisions allowing minors to request a court waiver of the notification requirements. The magnitude of these costs is unknown but could reach several million dollars annually, depending primarily on the number of minors that sought waivers. These costs would not be significant compared to total state expenditures for the courts, which are estimated to be \$1.7 billion in 2005–06.

SOCIAL SERVICES COSTS

If this measure discourages some minors from obtaining abortions and increases the birthrate among low-income minors, expenditures for cash assistance and services to needy families would increase under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. The magnitude of these costs, if any, would probably not exceed a few million dollars annually. The CalWORKs program is supported with both state and federal funds, but because all CalWORKs federal funds are currently committed, these additional costs would probably be borne by the state. These costs would not be significant compared to total state spending for CalWORKs, which is estimated to cost about \$5.1 billion in state and federal funds in 2005–06. Under these circumstances, there could also be a minor increase in child welfare and foster care costs for the state and counties.

Argument in Favor of Proposition 73

IN CALIFORNIA, a daughter under 18 can't get an aspirin from the school nurse, get a flu shot, or have a tooth pulled without a parent knowing.

HOWEVER, surgical or chemical abortions can be secretly performed on minor girls—even *13 years old or younger—without parents' knowledge.*

PARENTS are then not prepared to help young daughters with any of the serious physical, emotional, or psychological complications which may result from an abortion or to protect their daughters from further sexual exploitation and pregnancies.

A study of over 46,000 pregnancies of school-age girls in California found that *over two-thirds* were impregnated by adult men whose mean age was 22.6 years.

Investigations have shown that secret abortions on minors in California are rarely reported to child protective services although these pregnancies are evidence of statutory rape and sexual abuse. This leaves these girls *vulnerable* to further sexual abuse, rapes, pregnancies, abortions, and sexually transmitted diseases.

That's why *more than ONE MILLION SIGNATURES* were submitted to allow Californians to *vote* on the "Parents' Right to Know and Child Protection" Proposition 73.

PROP. 73 will require that one parent or guardian be notified at least 48 hours before an abortion is performed on a minor daughter.

PARENTS AND DAUGHTERS in more than 30 other states have benefited for years from laws like Prop. 73. Many times, after such laws pass, there have been substantial reductions in pregnancies and abortions among minors.

When parents are involved and minors cannot anticipate secret access to free abortions they more often avoid the reckless behavior which leads to pregnancies. Older men, including Internet predators, are deterred from

impregnating minors when secret abortions are not available to conceal their crimes.

If she chooses, a minor may petition juvenile court to permit an abortion without notifying a parent. She can request a lawyer to help her. If the evidence shows she is mature enough to decide for herself or that notifying a parent is not in her best interests, the judge will grant her petition. The proceedings must be confidential, prompt, and free. She may also seek help from juvenile court if she is being coerced by anyone to consent to an abortion.

POLLS SHOW most people support parental notification laws. They know that a minor girl—pregnant, scared, and possibly abandoned or pressured by an older boyfriend—needs the advice and support of a *parent*.

PARENTS have invested more attention and love in raising their daughter, know her personal and medical history better, and care more about her future than strangers employed by abortion clinics profiting from performing many abortions on minors.

A minor still has a right to obtain or refuse an abortion, but a parent can help her understand all options, obtain competent care, and provide medical records and history.

An informed parent can also get prompt care for *hemorrhage, infections*, and other possibly *fatal* complications.

Vote "YES" on PROP. 73 TO ALLOW PARENTS TO CARE FOR AND PROTECT THEIR MINOR DAUGHTERS!

www.YESon73.net

WILLIAM P. CLARK, California Supreme Court Justice, 1973–1981

MARY L. DAVENPORT, M.D., Fellow of the American College of Obstetricians and Gynecologists

MARIA GUADALUPE GARCIA, Organizing Director Parents' Right to Know and Child Protection/YES ON 73

Rebuttal to Argument in Favor of Proposition 73

KEEPING TEENS SAFE IS A PRIMARY CONCERN TO PARENTS, BUT Prop. 73's proponents believe government can force teens to communicate with their parents. Who's kidding who? FAMILY COMMUNICATION CAN'T BE "REQUIRED" BY GOVERNMENT. Talking to our daughters about responsible sexual behavior when they're young is the best way to protect them.

In fact, MOST TEENS DO TALK TO THEIR PARENTS, BUT SOME JUST CAN'T *SAFELY*. Proponents are *wrong* when they say those teens can *easily go to court*. IT'S UNREASONABLE TO EXPECT VULNERABLE, SCARED TEENAGERS FROM ABUSIVE FAMILIES TO SIMPLY "GO TO COURT." California courthouses are crowded; these teens don't need to endure a court proceeding.

The proponents are *wrong* when they assert that Internet predators and statutory rapists will be deterred from their despicable actions by new laws like these. THAT'S PREPOSTEROUS—it's just included to scare voters.

What proponents don't tell you is this law FORCES DOCTORS TO REPORT these procedures TO THE GOVERNMENT—why does government need to know?

They've also slipped into their initiative language adding "unborn child, a child conceived but not born" to our Constitution. What does that have to do with notification? We don't know.

What we do know is that THE CALIFORNIA SUPREME COURT, looking at the experience of other states with similar laws, CONCLUDED THAT THE EVIDENCE "OVERWHELMINGLY" SHOWS THESE LAWS DO NOT SUPPORT FAMILIES, BUT IN FACT, PUT TEENAGERS IN DANGER.

California's League of Women Voters, medical experts, and millions of concerned parents urge you to VOTE NO.

Visit www.NoOnProposition73.org.

DEBORAH BURGER, RN, President California Nurses Association

KATHY KNEER, CEO Planned Parenthood Affiliates of California

A. ERIC RAMOS, M.D., President California Academy of Family Physicians

Argument Against Proposition 73

PARENTS RIGHTFULLY WANT TO BE INVOLVED IN THEIR TEENAGERS' LIVES and all parents want what is best for their children. BUT GOOD FAMILY COMMUNICATION CAN'T BE IMPOSED BY GOVERNMENT.

Parents care most about keeping their children safe. That means always safe, even if they feel they can't come to us and tell us everything.

Family communication must begin long before a teen faces an unplanned pregnancy. *The best way to protect our daughters is to begin talking about responsible, appropriate sexual behavior from the time they are young and fostering an atmosphere that assures them they can come to us.*

Even teenagers who have good relationships with their parents might be afraid to talk to them about something as sensitive as pregnancy.

And sadly, some teens live in troubled homes. The family might be having serious problems, or parents might be abusive, or a relative may even have caused the pregnancy.

THIS LAW PUTS THOSE VULNERABLE TEENAGERS—THOSE WHO MOST NEED PROTECTION—IN HARM'S WAY, OR FORCES THEM TO GO TO COURT. Think about it: the girl is already terrified, she's pregnant, her family is abusive or worse. She's not going to be marching up to a judge in a crowded courthouse. *She doesn't need a judge, she needs a counselor.*

Mandatory notification laws make scared, pregnant teens who can't go to their parents do scary things, instead of going to the doctor to get the medical help they need. In other states, when parental notification laws make teenagers choose between talking with parents or having illegal or unsafe abortions, some teens choose the illegal abortion—even though it is dangerous. Sometimes teenagers are just teenagers.

And if, in desperation, teenagers turn to illegal, self-induced or back-alley abortions many will suffer serious injuries and some will die.

The CALIFORNIA NURSES ASSOCIATION, CALIFORNIA ACADEMY OF FAMILY PHYSICIANS, AND THE CALIFORNIA MEDICAL ASSOCIATION ALL OPPOSE Proposition 73. Mandatory notification laws may sound good, but, in the real world, they just put teenagers in real danger.

THE REAL ANSWER TO TEEN PREGNANCY IS PREVENTION, AND STRONG, CARING FAMILIES—NOT NEW LAWS THAT ENDANGER OUR DAUGHTERS.

California's teen pregnancy rate dropped significantly over the last decade without constitutional amendments or forced notification laws. That's because doctors, nurses, parents, teachers, and counselors are teaching teenagers about responsibility, abstinence, and birth control. These programs will help keep our daughters safe and out of trouble.

Talking to our daughters when they are young and fostering a place where they can freely communicate is the best solution.

BUT IF—FOR WHATEVER REASON—OUR DAUGHTERS CAN'T OR THEY WON'T COME TO US, WE MUST MAKE SURE THEY GET SAFE, PROFESSIONAL MEDICAL ATTENTION AND QUALITY COUNSELING FROM CARING DOCTORS AND NURSES.

As parents, we want to know when our daughters face a decision like this so we can be helpful and supportive. But also, as parents, our daughters' safety is more important than our desire to be informed.

Please join us in voting NO on Proposition 73.

ROBERT L. BLACK, M.D., FAAP, Officer of the Board
American Academy of Pediatrics, California District

RUTH E. HASKINS, M.D., Chair
Committee on Legislation, American College of
Obstetricians and Gynecologists, District IX California

DEBORAH BURGER, RN, President
California Nurses Association

Rebuttal to Argument Against Proposition 73

THE OPPONENTS JUST DON'T UNDERSTAND:

1. How parental notification laws work.
2. How the juvenile court system works.
3. How the abortion industry works.

Opponents say that "in the real world" notification laws "just put teenagers in real danger." But *OVER THIRTY STATES already have such laws, and THEIR REAL WORLD EXPERIENCE SHOWS THESE LAWS REDUCE MINORS' PREGNANCY AND ABORTION RATES WITHOUT DANGER AND HARM TO MINORS.*

If an abused minor does not want a parent notified, Prop. 73 requires strict confidentiality and an appointed guardian to assist her in juvenile court proceedings, usually informal and in judges' private chambers. The judge will decide whether it is in the girl's best interest to involve a parent, or whether she is mature and well-informed to decide—and will report evidence of abuse to a child protective agency so abuse problems will be addressed. The opponents' solution *allows a secret abortion and return to the abuse.*

Opponents say that parents "must make sure" their daughters "get safe professional medical attention" from "caring doctors."

BUT HOW? PARENTS WHO ARE KEPT IN THE DARK CAN'T ENSURE ANYTHING FOR THEIR DAUGHTERS.

Minors getting secret abortions don't seek out "quality counseling" and "caring doctors." They are shuttled through abortion clinics where no one knows them or has their medical records or history.

THE LOS ANGELES TIMES REPORTED MANY ABORTION BUSINESSES ARE "CHOP SHOPS" WHERE SUBSTANDARD CARE RESULTS IN INJURIES AND DEATH. PARENTAL NOTIFICATION WORKS.

FOR OUR DAUGHTERS' SAFETY, HEALTH, AND PROTECTION, VOTE YES on 73!

PROFESSOR TERESA STANTON COLLETT, J.D.
National Authority on Parental Notification and
Involvement Laws

JANE E. ANDERSON, M.D., FAAP, Clinical Professor of
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TEXT OF PROPOSED LAWS

PROPOSITION 73

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title

This measure shall be known and may be cited as the Parents' Right to Know and Child Protection Initiative.

SEC. 2. Declaration of Findings and Purposes

The people of California have a special and compelling interest in and responsibility for protecting the health and well-being of children, ensuring that parents are properly informed of potential health-related risks to their children, and promoting parent-child communication and parental responsibility.

SEC. 3. Parental Notification

Section 32 is added to Article I of the California Constitution, to read:

SEC. 32. (a) For purposes of this section, the following terms shall be defined to mean:

(1) "Abortion" means the use of any means to terminate the pregnancy of an unemancipated minor female known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the unborn child, a child conceived but not yet born. For purposes of this section, "abortion" shall not include the use of any contraceptive drug or device.

(2) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant unemancipated minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(3) "Notice" means a written notification, signed and dated by a physician or his or her agent and addressed to a parent or guardian, informing the parent or guardian that the unemancipated minor is pregnant and that she has requested an abortion.

(4) "Parent or guardian" means either parent if both parents have legal custody, or the parent or person having legal custody, or the legal guardian of a minor.

(5) "Unemancipated minor" means a female under the age of 18 years who has not entered into a valid marriage and is not on active duty with the armed services of the United States and has not received a declaration of emancipation under state law. For the purposes of this section, pregnancy does not emancipate a female under the age of 18 years.

(6) "Physician" means any person authorized under the statutes and regulations of the State of California to perform an abortion upon an unemancipated minor.

(b) Notwithstanding Section 1 of Article I, or any other provision of this Constitution or law to the contrary and except in a medical emergency as provided for in subdivision (f), a physician shall not perform an abortion upon a pregnant unemancipated minor until after the physician or the physician's agent has first provided written notice to a parent or guardian either personally as provided for in subdivision (c) and a reflection period of at least 48 hours has elapsed after personal delivery of notice; or until the physician can presume that notice has been delivered by mail as provided in subdivision (d) and a reflection period of at least 48 hours has elapsed after presumed delivery of notice by mail; or until the physician or the physician's agent has received from a parent or guardian a written waiver of notice as provided for in subdivision (e); or until the physician has received a copy of a waiver of notification from the court as provided in subdivision (h), (i), or (j). A copy of any notice or waiver shall be retained with the unemancipated minor's medical records. The physician or the physician's agent shall inform the unemancipated minor that her parent or guardian may receive notice as provided for in this section.

(c) The written notice shall be delivered to the parent or guardian personally by the physician or the physician's agent. A form for the

notice shall be prescribed by the State Department of Health Services. The notice form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.

(d) In lieu of the personal delivery required in subdivision (c), written notice may be made by certified mail addressed to the parent or guardian at the parent's or guardian's last known address with return receipt requested and restricted delivery to the addressee, which means a postal employee may only deliver the mail to the authorized addressee. To help ensure timely notice, a copy of the written notice shall also be sent at the same time by first-class mail to the parent or guardian. Notice can only be presumed to have been delivered under the provisions of this subdivision at noon of the second day after the written notice sent by certified mail was postmarked, not counting any days on which regular mail delivery does not take place.

*(e) Notice of an unemancipated minor's intent to obtain an abortion and the reflection period of at least 48 hours may be waived by a parent or guardian. The waiver must be in writing, on a form prescribed by the State Department of Health Services, signed by a parent or guardian, dated, and notarized. The written waiver need not be notarized if the parent or guardian personally delivers it to the physician or the physician's agent. The form shall include the following statement: **"WARNING. It is a crime to knowingly provide false information to a physician or a physician's agent for the purpose of inducing a physician or a physician's agent to believe that a waiver of notice has been provided by a parent or guardian."** The waiver form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.*

(f) Notice shall not be required under this section if the attending physician certifies in the unemancipated minor's medical records the medical indications supporting the physician's good-faith clinical judgment that the abortion is necessary due to a medical emergency as defined in paragraph (2) of subdivision (a).

(g) Notice shall not be required under this section if waived pursuant to this subdivision and subdivision (h), (i), or (j). If the pregnant unemancipated minor elects not to permit notice to be given to a parent or guardian, she may file a petition with the juvenile court. If, pursuant to this subdivision, an unemancipated minor seeks to file a petition, the court shall assist the unemancipated minor or person designated by the unemancipated minor in preparing the petition and notifications required pursuant to this section. The petition shall set forth with specificity the unemancipated minor's reasons for the request. The court shall ensure that the minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing a petition. An unemancipated pregnant minor shall appear personally in the proceedings in juvenile court and may appear on her own behalf or with counsel of her own choosing. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The court shall appoint a guardian ad litem for her. The hearing shall be held by 5 p.m. on the second court day after filing the petition unless extended at the written request of the unemancipated minor, her guardian ad litem, or her counsel. If the guardian ad litem requests an extension, that extension may not be granted for more than one court day without the consent of the unemancipated minor or her counsel. The unemancipated minor shall be notified of the date, time, and place of the hearing on the petition. Judgment shall be entered within one court day of submission of the matter. The judge shall order a record of the evidence to be maintained, including the judge's written factual findings and legal conclusions supporting the decision.

(h) (1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is sufficiently mature and well-informed to decide whether to have an abortion, the judge shall authorize a waiver of notice of a parent or guardian.

(2) If the judge finds, by clear and convincing evidence, that notice of a parent or guardian is not in the best interests of the unemancipated minor, the judge shall authorize a waiver of notice. If the finding that notice of a parent or guardian is not in the best interests of the minor is based on evidence of physical, sexual, or emotional abuse by a parent or guardian, the court shall ensure that such evidence is brought to the attention of the appropriate county child protective agency.

TEXT OF PROPOSED LAWS (PROPOSITION 73 CONTINUED)

(3) If the judge does not make a finding specified in paragraph (1) or (2), the judge shall deny the petition.

(i) If the judge fails to rule within the time period specified in subdivision (g) and no extension was requested and granted, the petition shall be deemed granted and the notice requirement shall be waived.

(j) The unemancipated minor may appeal the judgment of the juvenile court at any time after the entry of judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed and may prescribe forms for such proceedings. These procedures shall require that the hearing shall be held within three court days of filing the notice of appeal. The unemancipated minor shall be notified of the date, time, and place of the hearing. Judgment shall be entered within one court day of submission of the matter. The appellate court shall ensure that the unemancipated minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing an appeal. Judgment on appeal shall be entered within one court day of submission of the matter.

(k) The Judicial Council shall prescribe, by rule, the practice and procedure for petitions for waiver of parental notification, hearings and entry of judgment as it deems necessary and may prescribe forms for such proceedings. Each court shall provide annually to the Judicial Council, in a manner to be prescribed by the Judicial Council to ensure confidentiality of the unemancipated minors filing petitions, a report, by judge, of the number of petitions filed, the number of petitions granted under paragraph (1) or (2) of subdivision (h), deemed granted under subdivision (i), denied under paragraph (3) of subdivision (h), and granted and denied under subdivision (j), said reports to be publicly available unless the Judicial Council determines that the data contained in individual reports should be aggregated by court or by county before being made available to the public in order to preserve the confidentiality of the unemancipated minors filing petitions.

(l) The State Department of Health Services shall prescribe forms for the reporting of abortions performed on unemancipated minors by physicians. The report forms shall not identify the minor or her parent(s) or guardian by name or request other information by which the minor or her parent(s) or guardian might be identified. The forms shall include the date of the procedure and the unemancipated minor's month and year of birth, the duration of the pregnancy, the type of abortion procedure, the physician who performed the abortion, and the facility where the abortion was performed. The forms shall also indicate whether the abortion was performed at least 48 hours after either personal delivery of a notice pursuant to subdivision (c) or presumed delivery of a notice by mail pursuant to subdivision (d) to a parent or guardian; or was an abortion performed after a parent's or guardian's waiver of notice pursuant to subdivision (e); or was an emergency abortion performed without a notice pursuant to subdivision (f); or was an abortion performed after a judicial waiver of notice pursuant to paragraph (1) or (2) of subdivision (h) or subdivision (i) or (j).

(m) The physician who performs an abortion on an unemancipated minor shall within one month file a dated and signed report concerning it with the State Department of Health Services on forms prescribed pursuant to subdivision (l). The identity of the physician shall be kept confidential and shall not be subject to disclosure under the California Public Records Act.

(n) The State Department of Health Services shall compile an annual statistical report from the information specified in subdivision (l). The annual report shall not include the identity of any physician who filed a report as required by subdivision (m). The compilation shall include statistical information on the numbers of abortions by month and by county where performed, the minors' ages, the duration of the pregnancies, the types of abortion procedures, and the numbers of abortions performed after notice to a parent or guardian pursuant to subdivision (c) or (d); the numbers of emergency abortions performed without notice to a parent or guardian pursuant to subdivision (f); the numbers performed after a parent's or guardian's waiver of notice pursuant to subdivision (e); and the number of abortions performed after judicial waivers pursuant to paragraph (1) or (2) of subdivision (h) or subdivision (i) or (j). The annual statistical report shall be made available to county public health officials, Members of the Legislature,

the Governor, and the public.

(o) Any person who performs an abortion on an unemancipated minor and in so doing knowingly or negligently fails to comply with the provisions of this section shall be liable for damages in a civil action brought by the unemancipated minor, her legal representative, or by a parent or guardian wrongfully denied notification. A person shall not be liable under this section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the unemancipated minor or other persons regarding information necessary to comply with this section were bona fide and true. At any time prior to the rendering of a final judgment in an action brought under this subdivision, the parent or guardian may elect to recover, in lieu of actual damages, an award of statutory damages in the amount of ten thousand dollars (\$10,000). In addition to any damages awarded under this subdivision, the plaintiff shall be entitled to an award of reasonable attorney's fees. Nothing in this section shall abrogate, limit, or restrict the common law rights of parents or guardians, or any right to relief under any theory of liability that any person or any state or local agency may have under any statute or common law for any injury or damage, including any legal, equitable, or administrative remedy under federal or state law, against any party, with respect to injury to an unemancipated minor from an abortion.

(p) Other than an unemancipated minor who is the patient of a physician, or other than the physician or the physician's agent, any person who knowingly provides false information to a physician or a physician's agent for the purpose of inducing the physician or the physician's agent to believe that pursuant to this section notice has been or will be delivered, or that a waiver of notice has been obtained, or that an unemancipated minor patient is not an unemancipated minor, is guilty of a misdemeanor punishable by a fine of up to one thousand dollars (\$1,000).

(q) Notwithstanding any notices delivered pursuant to subdivision (c) or (d) or waivers received pursuant to subdivision (e), paragraph (1) or (2) of subdivision (h), or subdivision (i) or (j), except where the particular circumstances of a medical emergency as defined in paragraph (2) of subdivision (a) or her own mental incapacity precludes obtaining her consent, a physician shall not perform or induce an abortion upon an unemancipated minor except with the consent of the unemancipated minor herself.

(r) Notwithstanding any notices delivered pursuant to subdivision (c) or (d) or waivers received pursuant to subdivision (e), paragraph (1) or (2) of subdivision (h), or subdivision (i) or (j), an unemancipated minor who is being coerced by any person through force, threat of force, or threatened or actual deprivation of food or shelter to consent to undergo an abortion may apply to the juvenile court for relief. The court shall give the matter expedited consideration and grant such relief as may be necessary to prevent such coercion.

(s) This section shall not take effect until 90 days after the election in which it is approved. The Judicial Council shall, within these 90 days, prescribe the rules, practices, and procedures and prepare and make available any forms it may prescribe as provided in subdivision (k). The State Department of Health Services shall, within these 90 days, prepare and make available the forms prescribed in subdivisions (c), (e), and (l).

(t) If any one or more provision, subdivision, sentence, clause, phrase, or word of this section or the application thereof to any person or circumstance is found to be unconstitutional or invalid, the same is hereby declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality or invalidity. Each provision, subdivision, sentence, clause, phrase, or word of this section would have been approved by voters irrespective of the fact that any one or more provision, subdivision, sentence, clause, phrase, or word might be declared unconstitutional or invalid.

(u) Except for the rights, duties, privileges, conditions, and limitations specifically provided for in this section, nothing in this section shall be construed to grant, secure, or deny any other rights, duties, privileges, conditions, and limitations relating to abortion or the funding thereof.